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Dec. 13

CONCORD, N.H.

Mr. William A. Healy, Technical Secretary
Water Pollution Commission
State House Annex

Dear Sir:

In a letter of December 7, 1951, you point out that the Water Pollution Commission recommended to the 1951 Legislature a certain classification for the main stream of Sugar River, but that the Legislature failed to adopt the recommendation. You inquire, first, whether such recommendation is still in force for the purposes of R. L. c. 266-A, s. 7 III; and if your first inquiry be answered in the negative, whether the Commission may by vote directly re-establish a recommended classification as compared with following the standard procedure for classification set forth in R. L. c. 266-A, s. 5.

The statute is silent on the force of a recommendation which, being presented to the Legislature, is refused by that body. However, by analogizing such recommendations to somewhat similar actions, as motions or resolutions, it would appear that the recommendation is gone when refused by the Legislature.

The same result is attained upon an examination of the procedure followed in connection with recommendations. All of your activities under section 5 of the statute are designed to lead to a recommendation to the Legislature; indeed, it is only for this purpose that classification activity is authorized. When the recommended classification is decided upon it is presented to the Legislature in the form of a bill. At that point, it leaves the hands of your Commission and becomes a matter of legislative consideration. Thereafter it exists only as a proposal in the Legislature. Passage of the bill translates your recommendation into law; the effect of its rejection is that no acceptable recommendation has been proposed for the stream.

This requires the Commission then, to proceed to formulate a new recommendation under the duty imposed by the first paragraph of section 5.

Mr. William A. Healy

December 13, 1951

While a repetition of activity already completed is not desirable, no alternative is seen to following out the classification procedure set forth in section 5. Such repetition will not be a wasted operation, since the Commission will now be aware of the legislative attitude, and will consider the evidence in the light of such attitude.

Very truly yours,

Warren E. Waters
Assistant Attorney General

WEW:RM